IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1275 of 1999

in

CIVIL APPLICATION No 5816 of 1999

in

First Appeal No. 4164 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMCHAND MANGHAMAL DUA

Versus

AHMEDABAD MUNICIPAL CORP.

Appearance:

MR SURESH M SHAH for Appellant

MR PRASHANT G DESAI for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and

MR.JUSTICE A.M.KAPADIA

Date of decision: 02/12/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

1. This appeal which is filed under clause 15 of the Letters Patent is directed against order dated September 15, 1999 passed by the learned Single Judge in Civil Application No. 5816 of 1999 which in turn was filed in First Appeal No. 4164 of 1999 by which prayer made by the appellant to restrain the respondent from removing or pulling down the suit premises pending appeal is rejected.

2. Heard the learned advocates for the parties.

3. Admittedly, the appellant is in possession of the disputed property. In First Appeal No. 4164 of 1999 several contentions have been raised by the appellant which are yet to be adjudicated. Having regard to the facts and circumstances of the case, we are of the opinion that the appellant is entitled to interim relief as prayed for during the pendency of appeal. The impugned order is, therefore, liable to be set aside.

4. For the foregoing reasons, the appeal succeeds. Order dated September 15, 1999 rendered by the learned Single Judge in Civil Application No. 5816 of 1999 is set aside. The respondent is restrained from removing or pulling down the suit business premises of the appellant located near Halim-ni-Khakdi at Shahpur in Ahmedabad during the pendency of the First Appeal No. 4164 of 1999. The appeal is accordingly allowed with no orders as to costs.

(J.M. Panchal, J.)

2.12.2000. (A.M. Kapadia, J.)

(karan)